



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold Schwarzenegger**  
Governor

September 14, 2009

John J. Arnau  
Orange County Waste & Recycling  
300 North Flower Street, Suite 400  
Santa Ana , CA 92703

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE OLINDA ALPHA LANDFILL EXPANSION, ORANGE COUNTY (ACOE REFERENCE NO. SPL – 2009 – 00674 – JPL)**

Dear Mr. Arnau:

On July 30, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the expansion of the Olinda Alpha Landfill in Orange County. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description:	Eastward expansion of the Olinda Alpha Landfill ("Landfill") over a 33-acre area. The expansion of the Landfill's footprint will involve an increase of the planned top elevation of the Landfill from 1,300 feet above mean sea level (AMSL) to 1,415 feet AMSL and extend the closure date from the year 2013 to 2021. The expansion will involve the fill of five ephemeral drainages as part of earthwork for constructing refuse cells, stockpiling of daily cover, and other related landfill operation activities. The work will take place within an un-sectioned portion of Township 3 South, Range 8 West, of the U.S. Geological Survey <i>Yorba Linda, California</i> , 7.5-minute topographic quadrangle map (33 deg. 56 min. 40 sec. N/ -117 deg. 49 min. 24 sec. W).
Receiving water:	Five un-named ephemeral drainage channels, tributary to Fullerton Creek.

***California Environmental Protection Agency***



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Fill area: 0.20 acre of ephemeral drainages (1,760 linear feet).

Dredge volume: Not applicable.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 39.

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- Sandbags, straw wattles, silt fences, and other best management practices ("BMPs") will be employed to remove pollutants from storm water runoff from the project site.
- Additional site-specific BMPs will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").

**Offsite Water Quality Standards Mitigation Proposed:**

- An in-lieu fee will be paid to the Santa Ana Watershed Association towards the removal of 1.0 acre of invasive plants within waters of the U.S. and their floodplains. Initial removal of plants occurred using State funding authorized under Proposition 13.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level.

The Olinda Alpha Landfill is subject to drainage and erosion control requirements specified in Regional Board Waste Discharge Requirements Order No. 99-33. The proposed landfill expansion has been reviewed to assure consistency with the requirements of California Code of Regulations (CCR), Title 27, and has been incorporated into proposed Regional Board Order No. R8-2009-0047 ("Order No. R8-2009-0047"), scheduled for adoption at the October 16, 2009 Regional Board meeting. The issuance of this Certification does not constitute review or authorization pursuant to CCR Title 27. Such authorization will be provided with the adoption of Order No. R8-2009-0047.

Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08



DWQ and subsequent reauthorizations, is required, as is development of a SWPPP to control the discharge of pollutants from the project site.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at: [www.waterboards.ca.gov/santaana/board\\_decisions/adopted\\_orders/orders/2009/09\\_003\\_deminimus\\_permit\\_wdr.pdf](http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_003_deminimus_permit_wdr.pdf)

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), the Orange County Board of Supervisors certified an Environmental Impact Report (EIR) for the proposed project on February 13, 2008 (State Clearinghouse No. 2004011055).

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a responsible agency, the Regional Board is required to consider an EIR prepared by the lead agency in determining whether to approve a Section 401 Certification. A responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board has considered the EIR prepared for the proposed project in approving this Certification. More specifically, the Regional Board has considered those sections of the EIR relating to water quality. Based on the mitigation proposed in the EIR, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. Thus, the Regional Board finds that changes or alterations have been required in, or incorporated into the project, which avoid or mitigate impacts to water quality to a less than significant level.

**This 401 Certification is contingent upon the execution of the following conditions:**

- 1) The applicant must pay an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 1.0 acre of invasive plants in waters of the U.S. and their floodplain(s). The fee must include funding for a minimum of 20-years of follow-up maintenance and for the completion of biological condition assessments, using published and generally accepted methods (e.g.,



California Rapid Assessment Method), for the purpose of evaluating the improvement to the eradication project area. Evidence of the fee payment must be provided to the Executive Officer by November 10, 2009.

- 2) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 3) A copy of this Certification and any subsequent amendments must be maintained at the project site for the duration of work.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

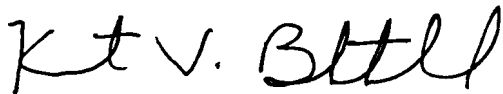


This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



for GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Melanie Stalder  
Department of Fish and Game – Erinn Wilson  
State Water Resources Control Board, Office of Chief Counsel – David Rice  
State Water Resources Control Board, DWQ – Water Quality Certification Unit  
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF:401/certifications/olinda alpha exp 302009-27

